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IF HAMILTON AND MADISON WERE MERELY LUCKY, WHAT HOPE IS THERE FOR RUSSIAN FEDERALISM?

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Abstract

The swirl of events in Russia lead in too many contradictory directions, and make it difficult if not impossible to confidently render conclusions about the future direction of events, and, in particular, the prospects for meaningful federal domestic relations. However, some theoretical perspective can be gained by looking at the theory of federalism offered in *The Federalist Papers*, with special attention to the failure of Madison and Hamilton to appreciate fully the role political parties would play in the eventual integration of American political institutions so as to establish, in Madison's words, a "properly structured" federation. Looking as well at the early history of parties in the U.S. we see that, in addition to the usual constitutional provisions associated with federalism, equally important are the structure of political competition within federal subjects (states) and election laws pertaining to the national legislature. Properly designed, these additional provisions encourage the development of political parties that mirror federal relations, and integrate regional and national political elites so as to avert center-periphery conflict. Unfortunately, a review of the provisions currently in place for Russia reveals that electoral practices and regional and republic constitutions and proposals are unlikely to encourage parties of the sort that would facilitate a stable federal system. This fact, in conjunction with several other trends (notably, corruption and the political instincts of political elites in Moscow) lead to the conclusion that a "federation" of the type currently observed in, say, Mexico is probably a better scenario of the future for Russia than is a federation that imitates the U.S., Australia, Germany, or Switzerland.

**If Hamilton and Madison Were Merely Lucky,
What Hope is there for Russian Federalism?¹**

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In December 1993, Russian voters ratified a constitution that ostensibly established a democratic federal state. However, it is not yet clear whether that document will move Russia in the direction of its stated objective or whether it merely provides a democratic gloss to a new authoritarian regime, albeit one with a capitalist foundation. Political parties, all born and bred in Moscow, are precarious entities that rise and fall with the fortunes of specific personalities. And federal relations remain a struggle between Moscow and Russia's regions and republics over revenue, resources, and policy, as decision-makers in the Kremlin act on instincts more in keeping with Lenin's scheme of democratic centralism than with any notion of democratic federalism. Thus, it is not unreasonable to ask: will Russia become a democratic federal state like the United States, Switzerland, or Germany; a quasi-federal one like Mexico ruled by a single party fed by official corruption; a democratic unitary one like France or Costa Rica; or an unstable, marginally democratic federalism like Nigeria?

The answer to this question cannot be found in any survey of Russia's current circumstances alone. The swirl of events there lead in too many contradictory directions. On the one hand, we see a political system permeated by corruption in which competing "clans" vie for control of Russia's

¹ The ideas in this essay were inspired by discussions at the Workshop on Regional Constitutions and Charters, Moscow, March 13-17, sponsored by the University of Maryland's IRIS Center and funded by the Global Bureau of the US Agency for International Development.

resources while exhibiting little interest in investing in a moribund economy.² On the other hand we find a Constitutional Court that has just begun to operate in an environment in which there appears to be considerable demand for an arbiter of conflict among those clans and among the varied parts of government. Economic reform proceeds fruitfully in some regions, whereas in others, circumstances are not much different than a decade ago.³ And although mass elections have gained ascendancy as a way to legitimize political leadership, arrangements are being fashioned that would allow for even greater vote fraud than is alleged to have occurred in 1993.⁴

To make sense of these contradictions requires some theoretical perspective, and for this we turn to what seems an unusual source insofar as our subject matter is Russia: *The Federalist Papers*. Briefly, in setting forth the constitutional prerequisites for achieving a balance between a viable national government whose laws are supreme but which nevertheless is protective of the legitimate autonomy of its states -- the twin objectives that currently bedevil the creation of a democratic federal Russia -- Madison and Hamilton offer an incomplete theory of federalism. In identifying the ways in which this balance would be maintained and states made "constituent parts of the national sovereignty" (*Federalist* #9), Madison and Hamilton accepted the view of parties that prevailed at that time. Equating parties with factions and, therefore, as things to be controlled by the new government, they were led to focus on a narrow range of constitutional parameters -- separations of power, representation in the national legislature, bicameralism, and allocations of jurisdictional responsibilities. Thus, failing to see parties as the mechanisms that would eventually breathe life into constitutional democracy, they failed to anticipate fully the influence on federalism of election laws,

² See, for example, "Political Elites Battle for Power in Russia's New 'Proto-Democracy'," *Washington Post*, Sunday, March 26, 1995.

³ See, for example, "Russia's Regions: Peripheral Power," *The Economist*, March 25, 1995.

⁴ "Computerized System of Elections Fails to Exclude the Manipulation of Elections," *Izvestia*, February 10, 1995; Alexandar Sobyenin, "According to the Project of the Central Committee of the Communist Party," *Izvestia*, February 10, 1995; and Mikhail Myagkov and Alexandar Sobyenin, "Irregularities in the 1993 Russian Elections: A Preliminary Analysis," Caltech Working Paper, Division of Humanities and Social Sciences, March, 1995.

the role of state and local elections, and the ways in which parties operate or fail to operate so as to implement a balance between those objectives.

Unfortunately, those who would direct the design of Russian federalism are focusing on the same narrow set of parameters that concerned Hamilton and Madison (albeit with considerably less theoretical and practical sophistication). Thus, if the durability of the U.S. Constitution owes as much to accident as to careful design, there is little reason to suppose that Russia will experience similar good fortune. Indeed, there are good reasons for believing that it is making some fundamental errors of political institutional design.

1. The Incomplete Theory of *The Federalist*⁵

The political theory set forth in *The Federalist*, constrained by the exigencies of political purpose, give but an imperfect view of why the Framers (or at least Madison and Hamilton) believed that the constitutional arrangements proposed for the new republic would have permanency. Without trying to distinguish between what was written merely as political rhetoric versus things said as part of a coherent theory of political institutional design, Madison and Hamilton offer two cures for the instabilities that characterized earlier republics: an extended republic and a properly structured federalism:

In the extent and proper structure of the Union, therefore, we behold a Republican remedy for the diseases most incident to Republican Government (Federalist #10).

The first of these cures, the extended republic, need not concern us, since if that argument applied in 1787-8, it applies with special force to Russia. If anything, Russia's size and diversity compel us to seek a clearer understanding of the meaning of "proper structure" than was required even of the Framers of the U.S. Constitution. Unfortunately, Madison and Hamilton's definition or outline of a

⁵ The required emphasis on the words "proper structure" was first brought to our attention by Vincent Ostrom (1991) and this section owes much to his discussion in that volume (see especially cp. 4).

proper structure is vague and incomplete. There are, though, several components of political institutional design that seem essential. First among these is a tripartite, balanced separation of powers, and there is little doubt that Madison and Hamilton saw the necessity for applying this principle to state governments as well as the national one:

In the compound republic of America, the power surrendered by the people, is first divided between two distinct governments, and then the portion allotted to each, subdivided among distinct and separate departments. Hence, a double security arises to the rights of the people. The different governments will control each other; at the same time that each will be controlled by itself (Federalist #51).

A balanced separation is a virtual axiom of *The Federalist* for achieving a stable republican government. But insofar as this axiom is directed primarily at safeguarding individual rights, we can end here only if we speak of a unitary state. Much if not most of Madison and Hamilton's argument is directed at countering the criticism that the powers granted the new national government by the proposed constitution, especially the supremacy of federal law, would quickly usurp the legitimate authority of states. However, there is little doubt they were unwilling to compromise on the issue of supremacy:

*the laws of the confederacy, as to the **enumerated and legitimate** objects of its jurisdiction, will become the SUPREME LAW of the land; to the observance of which, all officers legislative, executive, and judicial in each State, will be bound by the sanctity of an oath. Thus the Legislatures, Courts, and Magistrates of the respective members will be incorporated into the operations of the national government, as far as its just and constitutional authority extends; and will be rendered auxiliary to the enforcement of its laws (Federalist #27, emphasis in the original).*

To leave the matter here would render ratification of the new constitution an impossible achievement. Thus, for both political and theoretical reasons, additional requirements must be met to ensure a stable federal state. Those requirements, as outlined in *The Federalist*, are four in number:

- A constitutional guarantee of state sovereignty with respect to those policy jurisdictions for which there is little rationale for federal involvement. To counter federal incursions of state power, states must be armed with a guarantee of sovereignty that Hamilton and Madison presumed was provided by the proposed constitution's limited assignment of powers to the federal government and, subsequently, by Amendment X, the residual powers clause.
- State representation in a meaningful upper legislative chamber of the national government. Because constitutional prohibitions of federal excess are unlikely to be more than mere "parchment barriers," states require the additional protection of explicit representation in the Senate. Hamilton, in fact, virtually equates this and the preceding requirement with the definition of proper structure:

The proposed Constitution, so far from implying an abolition of the State Governments, makes them constituent parts of the national sovereignty by allowing them a direct representation in the Senate, and leaves in their possession certain elusive and very important portions of sovereign power. This fully corresponds, in every rational import of the terms, with the idea of a Federal Government (Federalist #9).

- In addition to seeing the Senate as representing states and the House as more responsive to "the people generally," *The Federalist* identifies **both** chambers as giving the states representation - - small states in the case of the Senate, large ones in the case of the House. Although Hamilton and Madison's arguments here were colored by more than a little political rhetoric, the general principle hinted at bears emphasis. Specifically, both chambers of the U.S. Congress (like both chambers of the German, Swiss, and Australian parliaments) give explicit representation to

the states, and thus both chambers, at least in theory, provide states with some degree of protection. In the U.S. and Australia, this is accomplished in the lower chamber by single-member districts contained wholly in each state; Switzerland implements proportional representation at the canton level, and in Germany it is accomplished by having parties fill seats in the *Bundestag* by both single-member districts and by party lists generated within each *lander*. To this principle, Madison adds one caveat -- namely, the lower chamber must be sufficiently large to ensure a meaningful representation of local interests but not so large as to engender political incoherence:

after securing a sufficient number for the purposes of safety, of local information, and of diffuse sympathy with the whole society, they will counteract their own views by ever addition to their representatives. The countenance of the government may become more democratic; but the soul that animates it may become more oligarchic. (Federalist #58, emphasis in the original)

- Concurrent jurisdiction. Unlike a unitary state in which the central government is alone responsible to the people and merely assigns powers to federal subjects, and unlike a confederacy in which the federal government has no direct connection to the people, proper structure requires that both the national government and state governments have their own direct connection to the ultimate sovereign. As Hamilton states the matter:

we must resolve to incorporate into our plans those ingredients which may be considered as forming the characteristic difference between a league and a government; we must extend the authority of the union to the persons of the citizens, -- the only proper objects of government (Federalist #15). And: The government of the Union, like that of each state, must be able to address itself immediately to the hopes and fears of individuals ... It must, in short, possess all the means and have a right to resort to all

the methods of executing the powers, with which it is entrusted, that are possessed and exercised by the government of the particular States (Federalist #16)

Thus, in his assessment of Hamilton and Madison's definition of a "proper structure," Vincent Ostrom (1991: p. 80) offers this summary: "Sovereignty, conceptualized as the authority to make laws, is divided so that the people of the member republics are subordinate to the authority of the Union with respect to national affairs, but are independent with respect to those prerogatives that apply to the jurisdiction of the separate states or republics. The states, in turn, serve as constituent parts of the national government by their representation in the Senate, Governments do not govern governments as such. Concurrent governments reach to the persons of individuals, including citizens and officials claiming to exercise governmental prerogatives under constitutional authority."

The emphasis here on states as "constituent parts" of the Union contrasts sharply with most contemporary treatments of federalism. Those treatments, especially ones offering formal assessments of public goods and the benefits of decentralization or ones debating the constitutional prerogatives of governments, typically conceptualize federalism as some $n+1$ person game: n federal subjects versus the national government (see, for example, Aranson 1995, Rapaczynski 1985, and Wallich 1994). There are good reasons for this view. If realizing the benefits of federalism requires a national government that can coerce all other governments in it to common purpose, and requires as well a constitutional rather than contingent decentralization of authority, then the core design problem is to find a way to achieve an equilibrium of federal and state prerogatives.⁶ This problem, in turn, is most easily reformulated as a $n+1$ person game.

However, without dismissing the utility of such a conceptualization, Madison and Hamilton also saw a federation as a more integrated entity. Although their federation was to be a political system in which the evils of faction and threats to individual liberty were to be controlled by both a vertical

⁶ For discussion of the distinction between constitutional and contingent decentralization see Aranson (1990).

and a horizontal separation of powers, with federal and state governments simultaneously and directly answerable to the people and formally combined in the institution of the Senate, it was to be an integrated entity nonetheless: "The proposed constitution ... makes [States] constituent parts of the national sovereignty" (*Federalist* no. 9).

The source of any federal equilibrium, then, was to be found not merely in the relationship of the separate levels of government to each other as an $n+1$ person game conceptualizes things, but also in the relationship of the separate governments and their parts to the ultimate sovereign, the people.

There is, though, one glaring omission from Madison and Hamilton's account of the properly structured federalism, and its absence allows them only an incomplete account of the mechanisms whereby the people would implement their control over state and national governments and the integration of federal and state governments that characterized proper structure. "The balance of social interests, the separation and balance of powers, were meant to secure liberty, but it was still uncertain, after the instrument had been framed and ratified, whether the balance would not be too precarious to come to rest anywhere; and whether the arms of government, separated in the parchment, could come together in reality to cooperate in the formation and execution of policy ... a mechanism had to be found, for example, by which men could put together what God, in the shape of the Constitution, had sundered" (Hofstadter, 1969, p. 70). That mechanism is the political party. Whether federal or otherwise "political parties created modern democracy ... and modern democracy is unthinkable save in terms of political parties" (Schattschneider 1941: 1). "The whole machinery, both of national and State governments, is worked by the political parties" (Bryce, 1887: 6). And, "In a country which was always to be in need of the cohesive force of institutions, the national parties, for all their faults, were to become at an early hour primary and necessary parts of the machinery of government, essential vehicles to convey men's loyalties to the State under a central government that often seemed rather distant and abstract" (Hofstadter, 1969: 70-1).

Of course, while we see parties today as a centerpiece of democratic politics, in 1787 parties and factions were treated as one and the same thing -- things to be controlled rather than made an integral

part of political processes: "The Fathers hoped to create not a system of party government under a constitution but rather a constitutional government that would check and control parties" (Hofstadter, 1969: 53). This view of parties, in turn, precluded the Framers from appreciating the role they would be called on to play in the federal state, a role that William Riker (1964: 136) identifies as the core ingredient of a stable democratic federalism: "Whatever the general social conditions, if any, that sustain the federal bargain, there is one institutional condition that controls the nature of the bargain in all instances here examined and in all others with which I am familiar. This is the structure of the party system, which may be regarded as the main variable intervening between the background social conditions and the specific nature of the federal bargain."

2. The Complete Constitution for a Federal State

Madison and Hamilton's view of parties and their failure to address them in contemporary terms is understandable. At the time, neither they nor anyone else had experience with such creatures; instead, their experience was drawn largely from the factions and "proto-parties" that emerged after independence in state legislatures to dispute patronage, reapportionment, and suffrage (Main 1973, Williamson 1960). Even today there is some dispute over the extent to which parties merely mirror constitutional federal arrangements as opposed to the degree to which they influence the operation of those arrangements (Chandler 1987). Nevertheless, even if we admit of simultaneous influences, what is important about Riker's analysis of federalism is that it directs our attention to constitutional provisions other than those normally associated with federal relations.

When designing a federal constitution, it is commonplace to suppose that the relevant provisions are those that deal with the following:

- federal subject representation in one or both national legislative chambers and the authority of those chambers;
- supremacy and secession (or nonsecession);
- the role, if any, of regional courts;

- jurisdictional boundaries between the federal government and federal subjects;
- the admission of new federal subjects or alterations in the boundaries of existing ones;
- the role of federal subjects in amending the national constitution; and
- guarantees of democratic governance within federal subjects.

However, if Riker is correct, these provisions alone cannot define a properly structured federalism. If parties play as profound a role as Riker and others suggest, then we need also look at the following:

- the method of electing the president if the system is presidential;
- the timing of elections;
- control over the methods of election to the national legislature as well as state legislatures;
- the pervasiveness of elections as a means of filling national, federal subject, and local public offices;
- the content of federal subject constitutions.

The first two items on this list, in combination with representational formulas for the national legislature, are the usual ones thought of as influencing the number of political parties and the extent to which parties (especially in ethnically divided states) act to moderate conflict (see, for example, Shugart and Carey 1992, Taagepera and Shugart 1989, and Horowitz 1991). These provisions alone, however, do not tell us much about regional party formation, the relationship between national and regional parties, or the extent to which parties facilitate viable federal relations.

Turning, then, to the remaining three items on this list, we can begin by noting that much of the early organized activities of "parties" in the United States, both before and after the ratification of the Constitution, was directed at the manipulation of those election laws and procedures controlled by the states, especially apportionment and suffrage (Hoadley 1986). Absent meaningful competition for the presidency (owing to Washington's hesitancy to reject running for a third term and the near-

consensus that that office was his for the asking throughout his administration), political competition, with but a few exceptions, focused on U.S. House seats, control of state legislatures, and, in some (but not all) states, control of the governorship. "For nearly fifty years popular attention in politics was absorbed in operating the local system, already 150 years old. Interest in the new federal politics developed with extreme deliberation" (Nichols, 1967: p. 164). Apportionment and suffrage laws were often key determinants of one party or faction's fortunes over another. Absent the opportunity to manipulate such things within states, it is unlikely that we would have seen the accelerated development of state parties, the conversion of personality-based factions into standing organizations for the mobilization of voters, and, subsequently, the bottoms-up development of national party organizations as opposed to the top-down process we see in Russia today.

The battle for patronage, perhaps as much as for control of policy, served the republic well as a basis for the formation and maintenance of local and state party organizations. Today, though, just as Mark Twain once wrote that a person is no more harmlessly occupied than when he is making money, it would seem that Americans believe that a politician is no more harmlessly occupied than when running for election or reelection. U.S. state constitutions today require not only that the office of governor and seats in the legislature be filled by direct election, but also that a wide variety of other state-wide offices be filled in the same way rather than through some appointment process -- offices such as lieutenant governor, secretary of state, treasurer, attorney general, superintendent of schools, secretary of agriculture, commissioner of insurance, highway commissioner, commissioner of labor, commissioner of elections, and state auditor. Table 1 gives the distribution of the number of executive offices that are normally filled on a state-wide basis in addition to governor. And state-wide elections are more pervasive than even this table shows. For example, after initial appointment by the governor, state Supreme Court justices must secure reappointment in general elections in 39 states, of which more than half (23) run with their party affiliations listed on the ballot.

It might seem unproductive to have dozens of executive and judicial state offices filled through election, not to mention countless local offices. After all, we cannot assume that many voters will have

good information about a great many, if any, of the candidates for these offices. Few voters would know much about the candidates for, say, inspector of mines (Arizona), or commissioner of the general land office (Texas). Thus, we might ask: Doesn't direct election open the door to the election of people who are merely adept at manipulating public opinion? Indeed, a positive answer to this question was not an uncommon opinion in the formative years of the United States. Although most states allowed for direct election of governor (as well as of sheriffs, state assemblies, and even militia officers) in their early constitutions, it is only in 1824, and only as a byproduct of the agitation for reapportionment, that election of the governor of Georgia was moved from the legislature to the citizens of that state. Other states were even later: North Carolina in 1835, Maryland in 1836, New Jersey in 1844, and last of all, Virginia in 1850 (Greene 1930). Whatever the benefits of widespread application of elections, they were not universally appreciated in the first quarter of the nineteenth century.

Table 1: # statewide executive offices, in addition to governor, filled by direct election⁷

range	number of states
0	3
1 – 5	5
6 – 10	18
11 – 15	12
16 – 20	10
21 – 25	1
> 25	1

But what are those benefits, and, in particular, what is the relevance of the pervasive use of elections at the regional and local level to the character of federalism? Briefly, the benefits take three interdependent forms. First, it facilitates the formation of local and regional party organizations that can, under the right circumstances, provide the building blocks for national parties. Thus, we should

⁷ Source: *The Book of the States*, vol. 30, 1994-5, The Council of State Governments, Lexington, Kentucky.

not be surprised to learn that just as Northern and Central states made greater use of direct election for state office than Southern states between 1790 and 1840, the development of political parties in the North was more advanced than in the South. Furthermore, these state parties served as the seed-bed of the national competition between Federalists and Republicans (Formisano 1981).

This is not to say that the things labeled parties in this period bear any resemblance to today's parties or even to the parties that formed during the Jacksonian era. But even in that era, party formation was predominantly a bottom-up process, driven largely by competition within the states. Thus, although state conventions became firmly rooted in the Middle Atlantic states by the mid-1820's and in New England by the mid-1830's, it was only until 1844 that an organization analogous to a national committee first appeared (Shade 1981). Regardless of the different degrees of their development, it is perhaps this feature of American state politics that gives additional meaning to de Tocqueville's observation that

The constitution of the United States is an admirable work, nevertheless one may believe that its founders would not have succeeded, had not the previous 150 years given the different States of the Union the taste for, and practice of, provincial governments ...
(emphasis in the original).⁸

The second benefit of filling a multiplicity of local and state office by direct election is a somewhat paradoxical one: it strengthens national parties and integrates them with local and regional organizations. To see what we mean, consider the story of the candidate for local judge in New York City, who, during one of Roosevelt's presidential campaigns, turned over the money for his own campaign to the local Democratic party in anticipation of professional assistance with campaign advertisements (Lubell 1952). Weeks went by, but he saw nothing -- no posters, no radio broadcasts that mentioned his name! Agitated and uneasy, he returned to party headquarters to complain. The head of the party took him to the southern tip of Manhattan where the ferry from Staten Island

⁸ as cited in Ostrom (1991), p. 96.

landed. And, as a ferry pulled into the dock, he pointed to the floating debris and garbage that swirled at the ferry's stern, pulled in by its wake, and said "the name of your ferry is Franklin Delano Roosevelt."

Thus, in an election in which voters confront scores of candidates about whom they know little or nothing, the essential commodity possessed by those candidates is their partisan labels and the fact that such labels are shared by visible and viable candidates for national office. Extensive application of direct elections at the local and state level, then, gives those active in the party a valuable commodity with which to deal -- the party's nomination and official sanction -- which, in turn, gives local party leaders an incentive to integrate their party with the national one. Moreover, as described in virtually every textbook on American politics, the connection works in the other direction as well. While the name Roosevelt and the label "Democrat" doubtlessly helped the local candidate for judge and countless other Democratic candidates for office, the organizations erected to nominate and facilitate local and state elections become an essential part of any national candidate's campaign. Thus, in a symbiotic relationship like those found in nature between, say, cleaner fish (*labroides dimidiatus*) and groupers (*epinephelus striatus*), local and national parties rely on each other for their survival and success.

Finally, extensive application of direct elections gives those with political ambition a ready means of moving up the ladder of political position and it gives a public home to those who would compete for the next rung. Moreover, because it is only natural to recruit candidates for national office, as with the farm clubs of professional baseball, from among those who have demonstrated their effectiveness at campaigning and governing at the local or regional level, it ensures that those who achieve national office have a strong genetic connection to local and regional party structures and governments.

None of this is to say that a multiplicity of regional and local elections alone yield vertically integrated yet decentralized parties of the sort Riker argues are essential for stable federal relations. For example, absent meaningful representation in **both** national legislative chambers and absent as

well a national competition for the office of the presidency, we are more likely to see parties like Canada's, where it is not uncommon to see national parties and wholly separate regional ones compete for provincial office, with the result that provincial campaigns are often framed as a competition between the prerogatives of the regional versus the national government (Chandler 1986). It is no accident, then, that although approximately half of those who held elective office before succeeding to the presidency of the United States since 1864 served as governor of some state, no Prime Minister of Canada has ever served as head of a provincial government. Notice, moreover, that we cannot attribute this difference to the fact that the U.S. is presidential and Canada parliamentary. Germany is also parliamentary, but the explicit Land representation in both the Bundestag and Bundesrat, in combination with meaningful local and Land elections, help explain the regional origins of at least four Prime Ministers (Kiesinger and Kohl both served as Land minister-presidents, Brandt was mayor of Berlin, and Schmidt began his political career in local Hamburg politics).

It is, then, the combination of constitutional provisions -- those dealing explicitly with federal relations, those that concern the authority of the separate chambers of the national legislature and the basis of representation in them, and those that treat directly or indirectly the political structure of regional and local governments -- that determine a constitution's influence on the nature of the federalism that will prevail in a country.

3. Whither Russia?

Although Russia's new constitution proclaims the establishment of a federal state, a significant number of provisions bring into question the definition of federalism that the drafters of that document had in mind. For example,

- Although Article 66.2 appears to place the drafting and implementation of regional charters in the hands of regional legislative bodies, there is considerable room for alternative interpretations over the role other federal authorities can or should play in this process. There seems little dispute that such charters should be ratified by local referenda. However, the

Kremlin wants to oversee the drafting process and want to be empowered, along with the upper legislative chamber (Federation Council), to pass final judgement on whatever documents are prepared.

- Article 72, which identifies the policies that fall under the jurisdiction of both national and regional governments, and Article 71, which identifies the things that are the exclusive jurisdiction of the national government, are virtually all-encompassing. Both articles, then, give Moscow a constitutional excuse to regulate or become involved in any public policy issue, thereby rendering Article 73 -- the constitution's residual powers clause -- essentially meaningless.
- Article 77.2, which perhaps most clearly enunciates the concept of democratic socialist centralism, provides that "federal executive bodies and the bodies of executive authority of the members of the Russian Federation shall form a single system of executive authority." This article, then, makes it unclear whether regional authorities can establish an executive branch of government that is answerable solely or even primarily to regional legislative and judicial authorities.
- Article 96.2 takes the method of election of regional representatives to the national legislature, including the Federation Council, out of the hands of regional governments and leaves open the possibility that the Council, like the Canadian Senate, will be appointed by authorities in Moscow.
- Article 118.3's provision that "the judicial system of the Russian Federation shall be established by the Constitution of the RF and federal constitutional law" leaves regions uncertain about how to establish balanced governments with a tripartite division of power. Unlike the circumstances surrounding the ratification of the U.S. Constitution, in which the prior existence of state courts left little ambiguity about the authority of states to establish their own judicial systems, or the German constitution's (Basic Law) specific reference to Land judicial systems, the Russian constitution makes no allowance for regional court systems.

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- Article 85.2, which allows the President of Russia "to suspend the acts of executive bodies of RF members if they contradict the Constitution of the RF, federal laws or the international obligations of the RF" not only gives the president general judicial authority and blurs the separation of powers at the national level, it leaves regional leaders uncertain as to whether they in fact have any overall constitutional guarantee of regional autonomy.
 - Although Article 130 promises citizen control of local affairs by "referenda, elections, and other means of direct exercise of their will," Articles 132.2 and 133 render local governments agents of the national government as opposed to regional governments. Specifically, the authority of local government will be determined by federal law.

Despite the anti-federal nature of these provisions, we should not assume that Russia's federal subjects are wholly impotent in securing meaningful autonomy. First, we do not yet know how Russia's newly formed Constitutional Court will balance these provisions against Article 5, which proclaims the equal status of all regions and republics. Under terms negotiated through a variety of bilateral treaties and side agreements, Russia's ethnic republics, especially Tatarstan, currently enjoy a degree of autonomy comparable to states in the U.S. (Solnick 1994, Teague 1994, Wallich 1994). It is only reasonable to predict that the remaining, predominantly Russian regions (its oblasts and krais) will, in a variety of substantive contexts, appeal to the Court under Article 5 for equivalent autonomy. Second, the struggle for control of Russia's vast natural resources has only just begun and it is unlikely that mere "parchment barriers" will do much to regulate this contest in the absence of enforceable or even identifiable property rights. The stakes are too high to suppose that regional authorities will avoid using nearly any measure to secure or retain control of those resources. Nor are they likely to seek protection from Moscow to avoid competing claims. It is far more efficient to collude against a distant center than to try to use the center, with its ephemeral powers, as an agent for resolving intra-regional conflicts. That is, competition for resources may serve the same party-formation function as did the competition for patronage in the United States.

However, even though we can find reasons for believing that the anti-federal provisions of the constitution will be reshaped by court interpretation and economic self-interest, if the arguments set forth in the previous section are correct, we must be less sanguine about the likelihood that Russia will achieve a meaningful balance between center and periphery. If we look, for example at the Tatar constitution, we find a document that, although it makes provision for direct election (every four years) of a regional parliament and governor (president), we find little more than democratic socialist centralism transplanted to the republic level. All other public offices are to be filled through appointment, and local governments are reduced to mere administrative appendages of the republic government.

Thus far, Moscow has succeeded in imposing more centralized control over its oblasts and krais. But like the Tatar constitution, it has not used that control to facilitate local and regional political party development. Local governments in these regions remain under Kremlin control, with little or no independent taxing authority. Unlike the latitude allowed U.S. states, Russia's regions have little control over suffrage (definitions of residence will be determined by federal laws) or apportionment (Russia's Central Election Commission, currently filled by Presidential appointment, dictates the drawing of district boundaries for the single-mandate elections of the Duma). And although one half of the Duma is filled by single-mandate district election, the other half is filled by national party-list proportional representation -- the world's largest experiment in PR. This, more than anything else, has encouraged a top-down development of parties so that, with the exception of the Communist and Agrarian parties, there has been little indigenous regional party development or activity. Nor is it even certain yet whether the regions will be empowered to control the election (or selection) of their own governors. With instincts that remain "appointment and direction from the center," and fearing regional political elites with independent electoral mandates, the Kremlin resists sanctioning competition for local and regional office, even though doing so discourages the indigenous development of regional party structures that might eventually seek to integrate with national party organizations. Finally, although Article 81.1 of the Russian Federation constitution provides for the

direct election of the president, there is no requirement of simultaneous elections. Indeed, the current election schedule prescribes that parliamentary elections be held six months earlier than the presidential one, and no uniform schedule exists with respect to contests for regional or republic office, thereby further diminishing the incentives for developing any symbiotic relationship of the sort described earlier between national and regional parties.

Of course, much of the institutional structure we believe is a essential for a viable federalism appeared in the United States only in a long sequence of reforms stretching from 1800 to early in this century. These reforms expanded democracy: reforms such as popular election of governor and of the vast array of state executive, administrative and judicial officials; popular election of Senators; requirements for voter approval of state and local debt; and direct voter access to their state constitutions. Whether similar institutional developments will arise in Russia remains to be seen, but it should also be kept in mind that the United States first developed its parties in an era when the federal government was relatively unimportant in the affairs of most voters. Even as late as the 1930's, local revenues exceeded those of the federal government two to one. Thus, regional and local parties formed because elections filled meaningful offices -- offices that controlled meaningful resources. It is not yet clear what resources Russia's regions will control, and its local governments control even less than ours do today.

4. Conclusion

The Framers of the U.S. Constitution knew well that constitutional provisions and allocations of authority were mere words on paper, and that speculations as to the eventual relationship among state and federal governments,

must be extremely vague and fallible, and that it is by far the safest course to lay them altogether aside; and to confine our attention wholly to the nature and extent of the powers as that are delineated in the constitution. Everything beyond this, must be left to the prudence and firmness of the people; who; as they will hold the scales in their

own hands, it is to be hoped, will always take care to preserve the constitutional equilibrium between the General and the State Governments (Federalist #32).

These words, then, are prophetic of Woodrow Wilson's (1911, p. 173) assessment of American politics more than one hundred years later: "The question of the relation of the States to the federal government is the cardinal question of our constitutional system. At every turn of our national developments we have been brought face to face with it and no definition either of statesmen or judges has ever quieted or decided it. It cannot, indeed, be settled by one generation because it is a question of growth, and every successive stage of our political and economic development gives it a new aspect, makes it a new question."

Things are not likely to be much different for Russia. Now, though, we can benefit from the experiences not only of the United States but of those successful and unsuccessful federations that have appeared since 1787 in order to see where Madison, Hamilton and the others who met in Philadelphia were struck by genius and where they were struck by luck. That assessment compels us to the view that Russia is unlikely to progress along a path that parallels the one travelled by the United States, and it is equally unlikely to reach an end similar to the ones achieved by Germany or Switzerland. Although intra-regional competition for resources may occasion the development of competing factions, there are as yet no incentives for those factions to integrate vertically so as to begin the development of things we might call parties. Indeed, as with Canada's regional parties, we are more likely to see those factions as competitors to whatever national parties politicians in Moscow try to organize. The Nigerian model cannot be ruled out, but we doubt, for reasons that we haven't the space to discuss here, that any military regime would arise to strangle the new constitution. French centralism is also improbable, since Russia's great geographic diversity and the financial impoverishment of the center preclude full control of things by Moscow. The greater danger, in fact, is a federation that, while whole on paper, becomes more like a confederation in which Russia's eastern and resource rich regions succeed in securing nearly complete autonomy. The most likely

scenaro, though, is Mexico: a top-down party system, pervasive official corruption that is used to "buy out" regional political elites, and a state that is more unitary than federal in terms of the autonomy enjoyed by its regions and republics. Should this prediction prove accurate, we may bemoan the absence of a viable Russian federalism, but perhaps take solace that a modicum of democratic stability has replaced the gangster regime that ruled Russia and its empire for three-quarters of a century.

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